

**PUBLIC NOTICE
OF INTENT TO PROPOSE OR PROMULGATE
NEW OR CHANGED AGENCY RULES**

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

**IDAPA 02 – DEPARTMENT OF AGRICULTURE
PO Box 790, Boise, ID 83701**

02-0604-0301, *Phytosanitary and Post-Entry Certification Rules* and 02-0606-0301, *Rules Governing the Planting of Beans (Phaseolus SPP.) in Idaho*. Both increase fees for the export certification program. Comment by: 10/22/03.

02-0625-0301, *Small Legume Seeds*. Repeal of chapter. Comment by: 10/22/03.

**IDAPA 07 – DIVISION OF BUILDING SAFETY
1090 E. Watertower St., Meridian, ID 83642**

07-0303-0301, *Rules Governing Modular Buildings*. Eliminates reference to provisions for replacing lost insignia for modular buildings; deletes fees for out-of-state inspections and references to plumbing and electrical fees. Comment by: 10/22/03.

07-0308-0301, *Rules Governing Commercial Coaches*. Eliminates reference to provisions for replacing lost insignia for commercial coaches. Comment by: 10/22/03.

07-0312-0301, *Rules Governing Manufactured or Mobile Home Installations*. Adopts by reference the January 1, 2004 edition of the "Idaho Manufactured Home Installation Standard". Comment by: 10/22/03.

07-0501-0301, *Rules of the Public Works Contractors License Board*. Changes conform to statutory changes; clarifies the application and hearing processes; adds definition of terms; and deletes references to language already in statute. Comment by: 10/22/03.

07-0701-0301, *Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems*. Establishes the minimum standards for HVAC installation practice, certification, registration, and educational programs. Comment by: 10/22/03.

**IDAPA 08 – STATE BOARD OF EDUCATION
PO Box 83720, Boise, ID 83720-0037**

08-0108-0301, *Miscellaneous Rules*. Allows that prohibition waivers on the possession, consumption or sale of alcoholic beverages at college or university-owned, leased, or operated facilities and on campus grounds be provided for by Board policy. Comment by: 10/22/03.

08-0202-0302, *Rules Governing Uniformity*. Incorporates all current teacher certification requirements into rule; adds passage of an appropriate performance assessment as a requirement for Idaho licensure; adds a fee schedule; changes timeframe for continuing approval of teacher education programs from 5 to 7 years; provides updates on school facilities to be consistent with recent statutory changes. Comment by: 10/22/03.

08-0202-0303, *Rules Governing Uniformity*. Adds definitions and revises and adds a Code of Ethics to the rule. Comment by: 10/22/03.

****08-0202-0304, *Rules Governing Uniformity*.** Provides for alternative routes to certification for teachers needing an emergency endorsement, individuals highly qualified in subject matter but with limited experience in educational methodology, and for para-educators. Comment by: 10/22/03.

****08-0203-0301, *Rules Governing Thoroughness*.** Includes proficiency on the ISAT as an additional requirement for high school graduation, with provisos, beginning with the class of 2006; requires that ISAT include sections for both selected and constructed responses; outlines provisions for adaptations and accommodations for all Limited English Proficient students; establishes that students will take the ISAT in spring of their 10th grade year and can retake portions of the test not passed. Comment by: 10/22/03.

**IDAPA 11 – IDAHO STATE POLICE
P.O. Box 700, Meridian, ID 83680-0700**

11-0401-0301, *Rules Governing Horse Racing*. Adopts Standard Time Trial rules of the American Quarter Horse Association. Comment by: 10/22/03.

11-0402-0301, *Rules Governing Simulcasting*. Requires operators engaging in account wagering to pay a source market fee to the Idaho State Racing Commission for disbursement to the racing industry. Comment by: 10/22/03.

11-0501-0301, *Rules Governing Alcohol Beverage Control*. Provides licensees with specific period of time, following loss or move of a licensed premise, to secure and occupy a new premise and display the alcohol beverage license. Comment by: 10/22/03.

11-1001-0301, Rules Governing the Idaho Law Enforcement Teletypewriter System (ILETS). Changes comply with federal standards for password and encryption policies; updates terminology relating to network security and agency agreements; updates citations for national policies incorporated by reference. Comment by: 10/22/03.

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

P.O. Box 25, Boise, ID, 83707

13-0102-0301, Rules Governing Public Safety. Requires a parent or designated adult to attend the live firing portion of hunter education with the student; defines the term 'accompany' to mean within normal conversational distance; corrects an obsolete reference to the course fee. Comment by: 10/22/03.

13-0104-0301, Rules Governing Licensing. Allows physician assistants and nurse practitioners to sign the Handicapped Vehicle Shooting Permit application and Handicapped Archery Permit application; adjusts annual quotas of nonresident deer and elk tags and outfitter set-aside tags; implements a controlled hunt drawing for Southeast Idaho Deer Tags; allows Department to use a waiting list to distribute unsold outfitter allocation tags; exempts the Junior Mentored Deer Tag from being counted for the nonresident deer and elk tag quotas; establishes a "raincheck" and refund procedure for military personnel who may have purchased Idaho hunting licenses and tags for the 2003 season; removes the once-in-a-lifetime limit for the special lottery and auction Bighorn Sheep Tags. Comment by: 10/22/03.

13-0108-0301, Rules Governing the Taking of Big Game Animals. Applies 10% nonresident controlled hunt permit limitation to all hunts for a species; establishes an ATV or motorized vehicle use restriction as an aid to hunting in identified hunts in certain big game management units and establishes a process for issuing late mandatory harvest reports and required filings with the Department. Comment by: 10/22/03.

13-0112-0301, Rules Governing Commercial Fishing. Adds Lake Trout to the species list available for commercial harvest; sets a limited commercial fishing season for Lake Trout in Lake Pend Oreille and allows use of conventional rod and reel fishing for commercial fishing for Lake Trout. Comment by: 10/22/03.

IDAPA 15 – OFFICE OF THE GOVERNOR

IDAHO COMMISSION ON AGING

3380 Americana Terrace, Ste. 120, Boise, ID 83706

15-0120-0301, Rules Governing Area Agency on Aging (AAA) Operations. Eliminates certain requirements regarding the day-to-day operation of AAAs through implementation of consumer choice programs. Comment by: 10/22/03.

IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

PO Box 83720, Boise, ID 83720-0012

15-0230-0301, Business Enterprise Program. Incorporates by reference the Commission's Business Enterprise Allowable Cost Manual that sets performance standards for the operation of a primary location and penalties for non-compliance. Comment by: 10/22/03.

DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

PO Box 83720, Boise, ID 83720-0066

15-0401-0301, Rules of the Division of Human Resources and Personnel Commission. Adds and clarifies definitions; updates and clarifies compensation provisions, terms of employment, special circumstances of employment or reemployment, bonus provisions, veterans' preference procedures, employees' rights and appeals process, leave time, supervisor responsibilities to manage and document performance, nepotism and conflict of interest rules, and minimum human resource policies. Comment by: 10/22/03.

IDAHO STATE LIQUOR DISPENSARY

PO Box 179001, Boise, ID 83717-9001

15-1001-0301, Rules of the Idaho State Liquor Dispensary. Clarifies the right of Dispensary personnel to remove underage and intemperate persons from the store premises. Comment by: 10/22/03.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

PO Box 83720, Boise, ID 83720-0036

16-0301-0302, Rules Governing Eligibility for Medicaid for Families and Children. Clarifies the federal requirements that the SSN must be verified before an applicant is eligible for Medicaid benefits; clarifies how income is calculated and ensures income methodology is applied equitably. Comment by: 10/22/03.

16-0304-0301, Rules Governing the Food Stamp Program. Clarifies SSN and citizenship and residency requirements; clarifies rules regarding fugitive felons, dependent care expenses, earned income, excluded income, change reporting, and vendor payment and third-party payments; updates work requirements for Able Bodied Adults Without Dependents (ABAWDs); and modifies citizenship or satisfactory immigration status and sponsor deeming. Comment by: 10/22/03.

16-0305-0302, Rules Governing Eligibility for Aid to the Aged, Blind and Disabled. Clarifies process for applicants to provide SSN at the time of application; clarifies asset transfers and resources of income for home and community based services and waiver services. Comment by: 10/22/03.

16-0308-0302, Rules Governing Temporary Assistance for Families in Idaho (TAFI). Clarifies that SSN must be verified before an applicant is eligible for TAFI benefits. Comment by: 10/22/03.

16-0309-0308, Rules Governing the Medical Assistance Program. Clarifies that Department can access records and copy those records for investigation of fraud or abuse and can suspend payments when investigating alleged fraud or abuse cases; deletes obsolete language and updates audit and investigation procedures. Comment by: 10/22/03.

16-0309-0309, Rules Governing the Medical Assistance Program. Changes the Ambulatory Surgical Center reimbursement methodology; clarifies that eligible participants under age 21 who meet the medical necessity criteria under Early Periodic Screening, Diagnosis, and Treatment (EPSDT) may be eligible for up to 24 hours a day of service delivery; and removes the requirement that Personal Care Assistants be Certified Nursing Assistants. Comment by: 10/22/03.

16-0309-0310, Rules Governing the Medical Assistance Program. Increases health care access for Medicaid-eligible children receiving services in schools by removing many limitations on Intensive Behavioral Intervention services. Comment by: 10/22/03.

16-0310-0303, Rules Governing Medicaid Provider Reimbursement in Idaho. Clarifies occupancy levels for facilities maintaining less than 80% occupancy rates; provides that special rates may be effective up to 30 days prior to when the application is received; clarifies amending the Disproportionate Share Hospitals surveys before final determinations of DSH payments are made. Comment by: 10/22/03.

****16-0317-0301, Service Coordination.** New chapter describes service coordination and identifies participants for the Idaho Medicaid program who are unable, or have limited ability to gain access, coordinate or maintain services on their own or through other means. Comment by: 10/22/03.

16-0322-0301, Rules for Licensed Residential and Assisted Living Facilities. Changes conform to HCR 17 to allow the return of unused or unopened medications to the dispensing pharmacy for credit. Comment by: 10/22/03.

16-0501-0301, Rules Governing the Protection and Disclosure of Department Records. Repeal of chapter. Comment by: 10/22/03.

16-0501-0302, Use and Disclosure of Department Records. Rewrite of chapter conforms to changes within HIPAA and clarifies and simplifies the current rules pertaining to Department confidentiality of records. Comment by: 10/22/03.

16-0612-0301, Rules Governing the Child Care Program. Increases the sliding fee schedule by 6% to comply with the required 3.5% holdback imposed by the Office of the Governor. Comment by: 10/22/03.

IDAPA 18- DEPARTMENT OF INSURANCE

PO Box 83720, Boise, ID 83720-0043

18-0138-0301, Insurance Availability for Ridesharing Arrangements. Repeal of chapter. Comment by: 10/22/03.

IDAPA 19 – BOARD OF DENTISTRY

708½ W. Franklin St., Boise, ID 83702

19-0101-0301, Rules of the Idaho State Board of Dentistry. Incorporates by reference the ADA Code and specifies that a violation of the ADA Code constitutes unprofessional conduct; identifies the 6 areas of specialty dental practice recognized and licensed by the Board; defines the terms advertisement and advertising and specifies types of advertising considered to be false, fraudulent and misleading to the public; specifies that disciplinary action may be taken by the Board for Code violations. Comment by: 10/22/03.

IDAPA 21 – DIVISION OF VETERANS SERVICES

320 Collins Road, Boise, ID 83702

21-0101-0301, Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure. Complies with changes to the federal Medicaid regulations. Comment by: 10/22/03.

21-0104-0301, Rules Governing the Idaho State Veterans Cemetery. Establishes charges for interment, disinterment, and reinterment in the State Veterans Cemetery. Comment by: 10/22/03.

IDAPA 22 – BOARD OF MEDICINE

PO Box 83720, Boise, ID 83720-0058

22-0103-0301, Rules for the Licensure of Physician Assistants. Changes provision for delegation of services agreement; clarifies the scope of practice to include only those duties and responsibilities delegated to them by the supervising physician; and revises provision for license/registration issuance, renewal, cancellation, and reinstatement. Comment by: 10/22/03.

22-0104-0301, Rules of the Board of Medicine for Registration of Supervising Physicians. Adds definitions; clarifies duties and responsibilities of supervising and directing physicians in overseeing the practice of physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, clinical nurse specialists, interns, externs, residents, and athletic trainers. Comment by: 10/22/03.

****22-0110-0301, Rules for the Registration of Athletic Trainers to Practice in Idaho.** Adds and changes definitions; defines scope of practice of athletic trainers and responsibilities of directing physicians; clarifies requirements for initial application and renewal, provides for provisional licensure, and amends the reinstatement process and fees. Comment by: 10/22/03.

22-0111-0301, Rules for Licensure of Respiratory Therapists in Idaho. Adds definitions; defines requirements for application for permits for polysomnographic trainees, technicians and technologists; adds additional grounds for disciplinary action and establishes fees for initial permits and renewal. Comment by: 10/22/03.

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

1109 Main Street, Suite 220, Boise, ID 83702

24-0101-0301, Rules of the State Board of Architectural Examiners. Adds continuing education requirements for renewal of architects licenses. Comment by: 10/22/03.

24-0401-0301, Rules of the Idaho Board of Cosmetology. Deletes requirement that mannequin hands for nail technology exam may not have artificial nails and corrects Idaho Code references. Comment by: 10/22/03.

24-0601-0301, Rules Governing the Board of Hearing Aid Dealers and Fitters. Clarifies application fees and license fees currently being assessed and continuing education requirements; amends sound field testing requirement. Comment by: 10/22/03.

24-0701-0301, Rules of the Board of Landscape Architects. Amends education and practical experience sections; clarifies application process; makes provision for landscape architect-in-training; clarifies examination section; replaces certificate fee with license fee; includes rules of professional responsibility; and amends meeting dates. Comment by: 10/22/03.

24-0801-0301, Rules of the State Board of Morticians. Defines qualifications and revises rules to comply with current Idaho Code. Comment by: 10/22/03.

24-0802-0301, Rules of the Idaho State Board of Morticians Governing Crematories. Repeal of chapter. Comment by: 10/22/03.

24-1001-0301, Rules of the State Board of Optometry. Clarifies required examination and acceptable requirements, and clarifies the continuing education and record keeping requirements for CE. Comment by: 10/22/03.

24-1201-0301, Rules of the State Board of Psychologist Examiners. Updates incorporation by reference; corrects e-mail address; clarifies application procedure; amends exam section to comply with national testing; amends service extender section to clarify documentation required; and amends educational curriculum requirements. Comment by: 10/22/03.

24-1401-0301, Rules of the State Board of Social Work Examiners. Defines psychotherapy; clarifies practice of social work, examination procedures and endorsement and continuing education ethics requirements; and allows continuing education from social services agencies, amends continuing education in cases involving illness. Comment by: 10/22/03.

24-1501-0301, Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists. Provides for supervision guidelines; defines counselors and marriage and family therapists; deletes grandfather provision; requires ethics as part of continuing education. Comment by: 10/22/03.

24-1701-0301, Rules of the State Board of Acupuncture. Corrects Board address and changes the effective date for continuing education requirements for renewal. Comment by: 10/22/03.

24-1801-0301, Rules of the Real Estate Appraiser Board. Updates incorporation by reference; deletes certificate and history record fees; clarifies continuing education requirements. Comment by: 10/22/03.

24-1901-0301, Rules of the Board of Examiners of Residential Care Facility Administrators. Incorporates by reference the ACHCA Code of Ethics; adds facility language to conform with Idaho Code; removes temporary permit provision; adds violation of Code of Ethics as grounds for discipline. Comment by: 10/22/03.

IDAPA 25 – OUTFITTERS AND GUIDES LICENSING BOARD

1365 N. Orchard, Suite 172, Boise, ID 83706

25-0101-0302, Rules of the Outfitters and Guides Licensing Board. Provides for expedited or emergency application fees, resubmittal, exceptional or special processing of application fees and for a credit for online electronic filing of applications as permitted by law. Comment by: 10/22/03.

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION

PO Box 83720, Boise ID 83720-0065

26-0120-0301, Rules Governing the Administration of Park and Recreation Areas and Facilities. Adds and clarifies definitions; clarifies that campsite and park facility access permitted with payment of camping fees; increases per person per night fee in group facility, fees for vessel launching, and Nordic ski grooming program fee for parks. Comment by: 11/10/03.

IDAPA 27 – IDAHO BOARD OF PHARMACY

PO Box 83720, Boise, ID 83720-0067

27-0101-0205, Rules of the Idaho Board of Pharmacy. Outlines statutory requirements for controlled substance prescription blank forms and discipline to be assessed by Board if practitioners fail to follow the legal requirements. Comment by: 10/22/03.

27-0101-0303, Rules of the Idaho Board of Pharmacy. Complies with HCR 17 to allow return and use of unopened and unused drugs. Comment by: 10/22/03.

27-0101-0304, Rules of the Idaho Board of Pharmacy. Expands the list of acceptable pharmacy references that are part of the required library in each pharmacy. Comment by: 10/22/03.

IDAPA 30 – IDAHO STATE LIBRARY

325 W. State St., Boise, ID 83702

30-0101-0301, Rules of the Idaho State Library Governing the Use of State Library Materials and Services. Clarifies and updates use of library materials and services and incorporates by reference the federal eligibility criteria for the use of the talking book library services by disabled borrowers. Comment by: 10/22/03.

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

PO Box 83720, Boise, ID 83720-0074

31-0101-0301, Rules of Procedure of the Idaho Public Utilities Commission. Proposes use of public workshops when a utility files an application to increase any rate to allow PUC Staff to dispense information and to receive written or oral comments from the public; incorporates Idaho Bar Commission Rule 222 regarding the limited admission of out-of-state attorneys representing parties before the Commission in quasi-judicial proceedings; and encourages public utilities to file their tariff schedules electronically. Comment by: 10/22/03.

31-1101-0301, Safety and Accident Reporting Rules. Updates various national safety codes that are adopted by reference. Comment by: 10/22/03.

31-2101-0301, The Utility Customer Relations Rules. Addresses customer billing, deposits and termination of service issues. Comment by: 10/22/03.

IDAPA 34 – SECRETARY OF STATE

PO Box 83720, Boise, Idaho 83720

34-0202-0301, Rules Governing Complaint Process Under the Help America Vote Act. Establishes a complaint process as a precondition for receiving funds under the Help America Vote Act (HAVA). Comment by: 10/22/03.

IDAPA 35 - STATE TAX COMMISSION

P.O. Box 36, Boise, ID 83722-0410

35-0101-0301, Income Tax Administrative Rules. Adds tables for the income tax brackets and rates by year; adds an exception to the graduated rates for the tax due on an electing small business trust's stock in an S corporation; requires an addition or subtraction for certain gains or losses if the Idaho depreciation is less than the amount allowed for federal; allows for adjustments to taxable income for withdrawals from an Idaho college savings program; removes the natural resource conservation credit from the list of nonrefundable credits. Comment by: 10/22/03.

****35-0101-0302, Income Tax Administrative Rules.** Allows a property tax exemption on personal property in lieu of claiming the investment tax credit on qualified investment; addresses the calculation of negative Idaho taxable income in the second preceding taxable year and the used property limitation. Comment by: 10/22/03.

35-0101-0303, Income Tax Administrative Rules. Adjusts the split monthly withholding thresholds to \$6,000 per monthly average per year and \$72,000 per year for withholding periods beginning on or after 1/1/04, as required by statute. Comment by: 10/22/03.

35-0102-0304, Idaho Sales And Use Tax Administrative Rules. Defines wireless telecommunications equipment; provides an exemption for sales of aircraft to nonresidents; clarifies what charges added to the sales price of tangible personal property are "services agreed to be rendered as part of the sale"; corrects a formula for sale of tangible property through vending machines; defines ATV; extends the duration of direct pay authorizations to five years. Comment by: 10/22/03.

35-0301-0301, Property Tax Administrative Rules. Deletes obsolete references; clarifies transient personal property that is not taxable; requires that county auditors include the value of the property exempted by statute; provides for county auditors to submit to the State Tax Commission the values on the new construction roll by a certain date; provides a date by which county auditors are to notify taxing districts of the values on the construction roll and resulting from annexation. Comment by: 10/22/03.

35-0301-0302, Property Tax Administrative Rules. Provides direction and clarification relating to the property tax funded budgets for library districts when library districts consolidate with city library services. Comment by: 10/22/03.

35-0103-0303, Property Tax Administrative Rules. Provides direction to taxpayers and assessors for implementation of the new property tax exemption provided by HB 453 beginning 1/1/04. Comment by: 10/22/03.

35-0110-0301, Idaho Cigarette and Tobacco Products Tax Administrative Rules. Proposes that the maximum bond amount for cigarette distributors be deleted from the rule. Comment by: 10/22/03.

35-0111-0301, Idaho Unclaimed Property Tax Administrative Rules. Changes language to conform to Idaho statute. Comment by: 10/22/03.

35-0201-0301, Tax Commission Rules Governing Administration and Enforcement. Establishes a formula for calculating the yearly interest rate applied to deficiencies of tax and refunds; clarifies what the tax amounts are for making various calculations on late taxes due; allows Tax Commission to exchange information with the county assessors to properly coordinate a property tax exemption on personal property in lieu of claiming the investment tax credit on qualified investment. Comment by: 10/22/03.

****35-0201-0302, Tax Commission Rules Governing Administration and Enforcement.** Discusses specifics of the property tax exemption penalty. Comment by: 9/24/03.

IDAPA 37 – DEPARTMENT OF WATER RESOURCES PO Box 83720, Boise, ID 83720-0098

37-0203-0301, Water Supply Bank Rules. Provides that the Board may, upon good cause, approve amendments to approved rental pool procedures submitted after April 1 of any year. Comment by: 10/22/03.

IDAPA 47 – DIVISION OF VOCATIONAL REHABILITATION PO Box 83702, Boise, ID 83720-0096

47-0101-0301, Rules of the Idaho Division of Vocational Rehabilitation. Deletes obsolete rules and makes minor amendments. Comment by: 10/22/03.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY 1410 N. Hilton, Boise, ID 83706-1255

****58-0110-0301, Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, as Amended.** Avoids the potential for radioactive material to be introduced into the environment by indiscriminate disposal by requiring that authorities be contacted prior to disposal. Comment by: 10/22/03.

****PUBLIC HEARINGS HAVE BEEN SCHEDULED FOR THESE DOCKETS.**

Please refer to the Idaho Administrative Bulletin, **October 1, 2003, Volume 03-10** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

Citizens of your county can view all issues of the Idaho Administrative Bulletin at the county law libraries.

Copies of the Administrative Bulletin and other rules publications are available for purchase. For subscription information and ordering see our website or call (208) 332-1820 or write the Office of Administrative Rules, Department of Administration, 650 W. State St., Room 100, Boise, ID 83720-0306. Visa and MasterCard accepted for most purchases.

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<http://www2.state.id.us/adm/adminrules/>